

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

INJUNCTION/TEMPORARY RESTRAINING ORDER

BETTER GOVERNMENT)
ASSOCIATION, an Illinois not-for-profit)
corporation,)
Plaintiff,)
vs.)
CHICAGO POLICE DEPARTMENT,)
Defendant.)

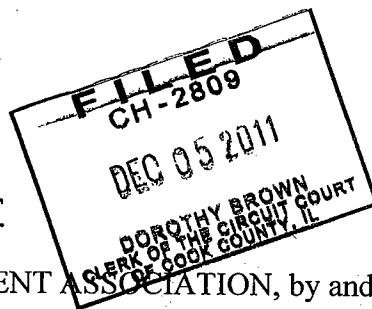
11CH41401
No.

COMPLAINT

NOW COMES Plaintiff, BETTER GOVERNMENT ASSOCIATION, by and through its undersigned attorneys, and for its Complaint against Defendant, CHICAGO POLICE DEPARTMENT, states as follows:

1. This is an action brought under the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1 *et seq.*, to compel the release of public records reflecting past deployment locations of the tactical units for each of Chicago's 25 police districts. Specifically, the BETTER GOVERNMENT ASSOCIATION seeks the release of documents sufficient to show: "where each and every tactical unit for each of Chicago's 25 police districts were assigned every shift of every day from Jan. 1, 2011, to present day" (the "Requested Records"). (*See Exs. A & B, Correspondence Seeking the Requested Records.*)

2. FOIA makes clear that it is "the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official



acts and policies of those who represent them as public officials and public employees" 5 ILCS 140/1.

3. Accordingly, "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2.

PARTIES

4. Plaintiff, the BETTER GOVERNMENT ASSOCIATION (the "BGA"), is a nonpartisan, not-for-profit organization formed in 1923 that combats waste, fraud, and corruption in government. The BGA has a long history of advocating for government transparency. For example, the BGA litigated a FOIA case against the Office of the Governor (Rod Blagojevich) and obtained a favorable judgment compelling the release of federal subpoenas directed to the Governor. *BGA v. Blagojevich*, 386 Ill. App. 3d 808 (4th Dist. 2008) (affirming lower court's order compelling release of subpoenas). The BGA has also made significant contributions on the policy front, including the BGA-ALPER INTEGRITY INDEX (2008), which ranks the transparency and ethics laws of all 50 states, and CURIOSITY KILLED THE CAT (2006), a state-wide audit of compliance with FOIA by over 400 randomly selected Illinois public bodies. (*Available at* http://www.bettergov.org/news/research_reports/; *see also* Editorial, *Scared of the Sunshine*, CHI. TRIB., Apr. 5, 2009, News, at 23 (quoting CURIOSITY KILLED THE CAT, attached as Exs. C and D).)

5. Defendant, CHICAGO POLICE DEPARTMENT ("CPD"), is the custodian of the records at issue in this case.

6. CPD is a public body subject to FOIA.

BACKGROUND

A. The Records Requested Are a Matter of Public Interest

7. CPD's change to the deployment locations of forces in Chicago's police districts has already been widely reported. (*See e.g.* Fran Spielman, *Emanuel: 3 police stations to close; police, fire headquarters to merge*, CHI. SUN TIMES, Oct. 11, 2011, available at <http://www.suntimes.com/news/8159895-418/emanuel-3-police-stations-to-close-police-fire-headquarters-to-merge.html>, Attached as Ex. E.)

8. It has been reported that CPD is diverting police from low-crime areas to high-crime areas. (*Id.*)

9. Mayor Emanuel himself has referred to this action as "unprecedented," stating that "[n]o other city to date has looked at both the headquarters and integrating certain areas into kind of a single public safety mission." (*Id.*)

10. Not everyone agrees with this decision, however. This action has been widely criticized and is considered a "politically-volatile idea." (*Id.*) For example, the Fraternal Order of Police President Mike Shields has criticized the redeployment: "We can argue that crime is going down. But one of the reasons crime goes down is because of officer presence. That keeps criminals off the street. When they stop going to certain locations, that's when the criminal comes back into that neighborhood." (*Id.*) Moreover, Ald. Scott Waguespack was described as "livid" upon discovering that CPD would be closing two stations in his ward. (*Id.*)

11. The public, therefore, has a particular interest in knowing how this controversial decision affects the deployment of police officers in their own neighborhoods.

B. The BGA's FOIA Request and CPD's Denial.

12. On June 8, 2011, the BGA submitted a FOIA request to CPD seeking "copies of documents sufficient to show where each and every tactical unit for each of Chicago's 25 police

districts were assigned every shift of every day from Jan. 1, 2011, to present day [June 8, 2011].” (Ex. A, 6/8/11 Herguth Email to foia@chicagopolice.org.) CPD responded on June 22, 2011, arguing that the BGA’s request was “unduly burdensome” under 5 ILCS 140/3(g). (Ex. F, 6/22/11 Enter Letter to Herguth.) CPD invited the BGA to revise its request to address these concerns. (*Id.*) Notably, the CPD asserted no other exemptions.

13. The BGA responded on July 12, 2011. (Ex. B, 7/12/2011 Herguth Email to foia@chicagopolice.org.) The BGA narrowed its request to “copies of documents sufficient to show where each and every tactical unit for each of Chicago’s 25 police districts was assigned every shift of every day during the last two weeks of April 2011 (April 17 though April 30.).” (*Id.*)

14. The CPD denied the BGA’s requests, as revised, on July 25, 2011. (Ex. G, 7/25/11 Enter Letter to Herguth.)

15. This time, CPD did not claim that the request was unduly burdensome, but rather claimed, for the first time, that the records were exempt under 5 ILCS 140/7(1)(v):

Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community’s population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(*Id.* (emphasis added by CPD (citing 5 ILCS 140/7(1)(v))).

16. Specifically, CPD argued that the records were exempt under FOIA because “[t]he day-to-day assignments of tactical teams are an integral part of the Department’s overall personnel deployment plan which is designed to protect both the City and its residents.” (*Id.*)

17. CPD’s justification is unsupportable for several reasons. First, it ignores the key threshold requirement that 5 ILCS 140/7(1)(v) applies only to “[v]ulnerability assessments, security measures, and response policies or plans . . .” 5 ILCS 140/7(1)(v). While CPD claims that the requested records are a part of its “deployment plan,” CPD’s interpretation of the word “plan” is misplaced. BGA does not seek any records regarding CPD’s “plans”—a forward-looking concept applying to actions to be taken in the future—but rather, BGA seeks historical records relating to actions that have already been taken, in the past.

18. Further, CPD ignores the additional threshold requirement that the plan must be “designed to identify, prevent, or respond to potential attacks upon a community’s population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community . . .” (*Id.*) This language contemplates plans that are designed to identify, prevent or respond to something more akin to acts of terror or natural disasters, and not the types of duties typical to tactical units within Chicago’s 25 police districts, as “tactical unit” refers generally to plainclothes officers in unmarked squads who patrol and, at least to some extent, focus on guns, gang and drugs. CPD has provided no support for the application of this requirement to the records in question. In fact, these more general law enforcement duties are addressed in a separate FOIA exemption—ILCS 140/7(d)—which, notably, CPD did not cite because that section is also wholly inapplicable.

19. In addition, such information is exempt “only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public.” (*Id.*) CPD has not explained how disclosure of the requested documents would put the effectiveness of CPD’s safety measures in jeopardy. In fact, providing the records requested would improve the effectiveness of CPD’s safety measures by providing residents with information regarding where their protection is—or is not—located. Providing such information to Chicago’s residents will allow them to conduct themselves in a manner allowing for their optimal safety.

20. For all of these reasons, CPD falls far short of providing the “detailed justifications” required to support its withholding of the public records sought by BGA. *Day v. City of Chicago*, 388 Ill. App. 3d 70, 77, 80 (1st Dist. 2009) (criticizing CPD for failing to provide legitimate support for claims of exemptions under FOIA and holding that to accept CPD’s affidavits without inspecting the documents requested would constitute “rubber stamp judicature” that would be “an abdication of our responsibility”).

CLAIM FOR RELIEF UNDER FOIA

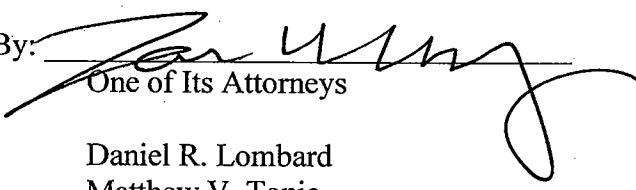
21. Paragraphs 1-20 above are incorporated by reference.
22. The Requested Records are public records under FOIA.
23. CPD has not produced the Requested Records.
24. The exemption cited by CPD—5 ILCS 140/7(1)(v)—does not apply to the Requested Records.
25. No other FOIA exemption applies to the Requested Records.
26. On information and belief, CPD’s wrongful withholding of the requested documents has been intentional and willful and taken in bad faith, as demonstrated by CPD’s bait-and-switch responses to BGA’s previous requests. First, CPD claimed that BGA’s request was

“unduly burdensome” (Ex. F), but then once BGA narrowed its request to eliminate any burden on CPD, CPD changed the reason for its denial to the vulnerability exemption of 5 ILCS 140/7(1)(v)—which CPD never cited in its original denial.

WHEREFORE, the BGA prays that this Court enter an order (1) compelling the immediate release of the Requested Records as required by FOIA, 5 ILCS 140/1 *et seq.*; (2) granting the BGA all costs and attorneys’ fees associated with this suit pursuant to 5 ILCS 140/11(i); (3) finding that the violation was willful and intentional and ordering CPD to pay a find of \$5,000 pursuant to 5 ILCS 140/11(j); and (4) awarding all other just and equitable relief that the Court deems appropriate.

Dated: Dec. 5, 2011

Respectfully submitted,
BETTER GOVERNMENT ASSOCIATION,
an Illinois not-for-profit corporation,

By: 
One of Its Attorneys

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Lauren K. Schwartz
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312-862-2000
Facsimile: 312-862-2200
Firm ID No. 90443

A

From: Bob Herguth <rherguth@bettergov.org>
Subject: FOIA request
Date: June 8, 2011 12:38:56 PM CDT
To: foia@chicagopolice.org

Dear FOIA officer,

My name is Bob Herguth, I am with the Better Government Association with a request for documents under the Illinois Freedom of Information Act.

Specifically, I am requesting copies of documents sufficient to show where each and every tactical unit for each of Chicago's 25 police districts were assigned every shift of every day from Jan. 1, 2011, to present day.

To be clear, I want to know whether a tactical team from one district was assigned to another district, or for a special detail outside the district. And, if so, what was that special detail or other district they were assigned to -- day by day. I want this information broken down so I know how many days (and which days) each tactical team spent within their home districts -- and, if they were sent outside of their districts, where they were sent, and for what general purpose.

If this is in any way unclear, please reach out and I can clarify.

This information is for a possible news story.

I ask that documents and correspondences be conveyed electronically, and that any fees be waived.

I appreciate your consideration.

Bob Herguth
Better Government Association
223 W. Jackson Blvd., Suite 620
Chicago, IL 60606
(312) 821-9030 office
rherguth@bettergov.org

B

From: Bob Herguth <rherguth@bettergov.org>
Subject: Revised FOIA request for Officer Enter
Date: July 12, 2011 1:39:43 PM CDT
To: foia@chicagopolice.org

Dear Officer Enter,

My name is Bob Herguth, I am with the Better Government Association with a request for documents under the Illinois Freedom of Information Act.

Specifically, I am requesting copies of documents sufficient to show where each and every tactical unit for each of Chicago's 25 police districts was assigned every shift of every day during the last two weeks of April 2011 (April 17 through April 30.) To be clear, I want to know whether a tactical team from one district was assigned to another district, or for a special detail outside the district. And, if so, what was that special detail or other district they were assigned to -- day by day. I want this information broken down so I know how many days (and which days) each tactical team spent within their home districts -- and, if they were sent outside of their districts, where they were sent, and for what general purpose. If this is in any way unclear, please reach out and I can clarify.

This information is for a possible news story.

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I appreciate your consideration.

Bob Herguth
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C

BETTER GOVERNMENT ASSOCIATION

OCTOBER 26, 2006 08:25 AM

Curiosity Killed the Cat: A report on compliance with the Illinois' Freedom of Information Act

A report by the Better Government Association (BGA) reveals an overwhelming rate of failure among public agencies asked to produce public records.

By Jay Stewart & Dan Sprehe

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CHICAGO — A report by the Better Government Association (BGA) reveals an overwhelming rate of failure among public agencies asked to produce public records.

The report, "Curiosity Killed the Cat," details the challenges an ordinary citizen faced, when asking for public records from 408 units of government in Illinois. BGA Fellow Daniel Lombard sent the requests to gauge the government's compliance with FOIA for those other than news organizations or watchdogs like the BGA.

Among the study's findings:

- Only thirty-eight percent of public bodies were fully or substantially compliant.
- Thirty-nine percent failed to respond at all, a violation of the Act.
- Of those audited, sixty-two percent failed to comply with FOIA.

"The results are appalling," said Jay Stewart, Executive Director of the Better Government Association. "When the overwhelming majority does not comply with the law and produce records that are clearly available under FOIA, something is seriously wrong."

"Public employees and officials have a duty to follow the law, just like everyone else," Stewart said, "and the law says the public has a right to see how its business is conducted."

Even more disturbing than the results alone was the level of resistance, obfuscation, and outright hostility that greeted the ordinary citizen asking to see public records.

Under the Freedom of Information Act, the intent of a citizen asking for is inconsequential and cannot determine whether or not the request is fulfilled. During the BGA's study, however, numerous public officials demanded that Lombard provide his reasoning for seeking the records, with many refusing to produce the documents otherwise.

In one notable case, a public body reversed its decision to deny the request, after discovering Lombard's affiliation with the BGA.

"This shows that ordinary taxpayers are too-often denied a right so clearly provided by the Freedom of Information Act," Jay Stewart said.

"If public officials aren't educated enough on the law, then we need to educate them. If they just don't want to follow the law, then we should hold them accountable just like the rest of us would be."

The BGA is recommending a series of amendments to the Illinois FOIA, including a requirement that public bodies report on its compliance with the law each year, risking the loss of state funds otherwise. The Illinois Attorney General's Public Access Counselor should also have the authority to enforce the law and be given more power to help citizens in their requests.

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"Transparency is crucial in running government without corruption and excessive waste," added Stewart. "Results like these are unacceptable. The public deserves better."

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D

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EDITORIAL

Scared of the sunshine

April 5, 2009

Today the Tribune offers the first of a series of recommendations to clean up the corruption and secrecy that has become pervasive in Illinois government and politics.

Many of these steps will require action by Illinois lawmakers -- the very people who have grown comfortable with the status quo. None of this will be accomplished unless Illinois citizens demand it. We urge you to be heard -- at the village boards and city halls, at the halls of the legislature, in the governor's office. Encourage your neighbors to do the same. Turning this agenda into strong laws -- not mere eyewash -- would be a good beginning toward lasting change.

The series opens with the need to unravel government secrecy.

Want to know what your government is doing for you? Or to you? Good luck.

The Illinois Freedom of Information Act steps off smartly, declaring that "all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them...."

From there, though, the law stumbles through a thicket of exceptions, exemptions and obstacles that render its opening lines largely moot.

It's a notoriously weak law, it's poorly enforced, and we all know why. Secrecy protects the people in power.

In their role as public watchdogs, Tribune reporters encounter daily stonewalling from officials who don't want their actions scrutinized by the public. Ordinary citizens don't fare any better.

In 2006, the Better Government Association had a taxpayer make a simple records request of 408 local governments in Illinois. Only 32 percent of them complied. A whopping 39 percent didn't even bother to respond.

The citizen "encountered blatant resistance, numerous delays and arbitrary obstructions that violate both the letter and the spirit of the Illinois FOIA," the BGA's report says. Some public bodies tried to levy prohibitive copying fees or to charge for staff time to produce the records, clear violations of the law. Others demanded to know why he wanted the information.

"Most striking was the level of hostility John Q. Public encountered despite requesting documents that are clearly available under FOIA," the report says.

Yes, hostility. When you want information from your government, you can expect not just indifference. You can expect hostility.

Embarrassed by the abuses of former Gov. Rod Blagojevich, who instructed state agencies to deny public records requests as a matter of routine, state lawmakers have pledged to put some teeth in the law.



Don't hold your breath.

The legislature is considering a package of tepid reforms that rely largely on the good faith of those recalcitrant public officials. If your village council doesn't want to share its records with you, it still would find plenty of cover in the proposed bill, with its gaping loopholes and wrist-slap penalties.

Fixing the FOI law will require much, much more than what the legislature is now contemplating.

It will require a wholesale rewrite, not a handful of tweaks.

This doesn't have to be complicated: The new law should begin with the presumption that public records are open to public inspection.

The burden should be on the government to prove otherwise, based on a very few, very specific exceptions. The law should establish a reasonable and efficient process for fulfilling public records requests and set meaningful penalties for those who don't comply.

The current law is loaded with excuses and stalling mechanisms that are exploited every day by officials who don't want taxpayers looking over their shoulders. And it provides citizens with little recourse if their requests are arbitrarily denied.

Among the problems:

*A record is exempt from disclosure if releasing it would constitute "a clearly unwarranted invasion of personal privacy." Sounds reasonable, except that catch-all often is used to withhold any record that contains Social Security numbers. The law specifically excludes personnel files of government employees.

While the House bill would eliminate the personnel file ruse, a better approach to ensuring privacy would be to spell out types of information that are protected -- medical histories and Social Security numbers, for example -- instead of exempting entire records that contain otherwise public information. Make it clear: the Social Security number will be redacted and the rest of the file will be released.

**"Under investigation" is a widely abused exemption, used to withhold the barest details of alleged misconduct by government officials or employees. The law should provide language that ensures this exemption is narrowly interpreted.

*Records of the deliberative process -- arguably one of the areas of government most in need of transparency -- are not public. Drafts, notes, memos, recommendations and other records "in which opinions are expressed or policies or decisions are formulated" are exempt, and the law takes care to spell out that this applies to "all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents." What part of that sounds like it's not your business? Not surprisingly, no lawmaker has stepped forward to carry the banner for changing that.

Public officials also are quick to avail themselves of a provision that allows them to deny a request if fulfilling it would prove "unduly burdensome." (This is the Chicago Police Department's favorite clause.) The ability to invoke this exception inspires many agencies to maintain records in a way that makes producing them "unduly burdensome" -- storing them off-site, for example, or keeping paper documents instead of easily duplicated, easily redacted electronic records. That has to stop.

The current law provides little incentive for compliance. More often than not, it works like this: You file a request for a public record, wait the 14 business days allowed for a response, appeal, wait seven more days ... and nothing happens.

By law, this constitutes a denial, and your options are to sue or give up. Go to court and win -- no sure thing, given how broad and subjective the exemptions are -- and the law says the judge "may" order the intransigent public body to pay our legal fees. Then again, maybe not. No wonder public officials are so cavalier about denying or disregarding requests for information.

The law should explicitly provide that legal fees will be paid by an offending public body, and should include substantial fines, especially for repeat violators.

Officials in Illinois may hem and howl, but there are states -- Florida is one; Washington is another -- in which providing public information is considered a priority, not a nuisance. Same-day service is the standard turnaround for records requests.

Their laws make allowances for information that should be protected, but they don't allow public officials to abuse those allowances.

Lo and behold, Florida and Washington haven't ground to a halt, personal privacy hasn't been compromised, police investigations haven't fallen apart.

Remember Lincoln's Gettysburg address: government by the people, for the people?

Sunshine is nothing to be afraid of, unless you have something to hide.

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E

Emanuel: 3 police stations to close; police, fire headquarters to merge

BY FRAN SPIELMAN

City Hall Reporter
fspielman@suntimes.com

Last Modified: Nov 16, 2011 01:28PM

The Chicago Police Department will close three district police stations in 2012 — Wood, Belmont and Prairie — consolidate police and detective areas from five to three and merge Police and Fire Department headquarters and specialized units, Mayor Rahm Emanuel said Tuesday.

Instead of having “overlapping functions” in the Police and Fire Departments overseeing anti-terrorism, marine activities, helicopter and bomb and arson, those units will join forces under “single leadership” for “better coordination at key moments,” the mayor said.

The merger of special units and the combined Police and Fire headquarters at 35th and Michigan will create a “more agile bureaucratic structure” that Emanuel called unprecedented.

Emanuel will unveil his 2012 city budget at a special City Council meeting on Wednesday, using a mix of budget cuts and targeted tax and fee increases to erase a \$635.7 million shortfall.

“No other city to date has looked at both the headquarters and integrating certain areas into kind of a single public safety mission,” the mayor said, joking that the Police and Fire Departments would maintain “separate football and softball teams”

“The bureaucratic structure that existed, rather than assist, sometimes actually got in the way. ... The city is better served from a public safety perspective [by] finding that kind of integration and being more agile.”

The Chicago Sun-Times reported last month that Police Supt. Garry McCarthy was exploring the politically-volatile idea of closing district police stations to save millions and free scores of officers for street duty.

In an exclusive interview with the Chicago Sun-Times on the eve of his budget address to the City Council, Emanuel confirmed that he is closing three stations by “taking the oldest buildings and consolidating them into some of the newest facilities.”

City Hall sources subsequently identified the three stations as Wood, Belmont and Prairie. The Prairie station opened in 1952 and is Chicago’s second-oldest station. Wood opened in 1960. Belmont dates back to 1975.

Sources said the stations were chosen because of their relatively low crime statistics and the ability of nearby stations with similarly low numbers to absorb the operations.

Chicago has 25 police districts, each with its own station. O.W. Wilson, the city’s first civilian superintendent, bit the bullet in 1960 and closed several stations, leaving only 20. Five more have been added since then.

For every station closed, McCarthy estimated that 20 officers could be made available for street duty. The move would also free scores of additional officers now assigned to police areas who support those district operations.

“At the end of the day, the consolidated districts will have the largest police forces — meaning by district manpower,”

the mayor said.

Nearly 20 years ago, then-Mayor Richard M. Daley embraced a consultant's proposal to close seven police stations to free 400 officers for community policing only to back off amid a barrage of protests in the impacted neighborhoods.

Emanuel said Tuesday he is well aware of the politics behind station closings — and the widely-held view among some neighborhood residents that living close to a police station makes them more safe.

But, he also said, "Between the building that's sitting there and a police officer [who is] driving around, most important from a visual kind of security is the cop driving around, riding around, walking a community. That's where a community feels safety — not in a building that's two miles away."

The decision to consolidate police and detective areas from five to three could dramatically reduce the number of police supervisors. But, McCarthy said he intends to keep them all, but use them more effectively.

If the captain's union agrees to a "side letter," every district commander, area deputy chief, and unit chief will have an executive officer, he said. The Fire Department will also go from six areas to five.

"If the commander is on vacation or out sick, somebody's got to be in charge who's accountable," McCarthy said.

"It's taking the management structure that exists — the same population — and redistributing it into a consolidated, more efficient system.

Currently, the city is divided into five detective "areas," each of which is responsible for investigating crimes in five police districts.

The city's detective divisions are Area 1, 5101 S. Wentworth; Area 2, 727 E. 111th; Area 3, 2452 W. Belmont; Area 4, 3151 W. Harrison, and Area 5, 5555 W. Grand. Emanuel and McCarthy would not say which two are being eliminated.

Not surprisingly, Fraternal Order of Police President Mike Shields reacted coolly to the station closings.

"We're going to be losing manpower in those neighborhoods that are losing districts. It's going to happen. We all know it. They're just not telling us right now," Shields said.

"We can argue that crime is going down. But one of the reasons crime goes down is because of officer presence. That keeps criminals off the street. When they stop going to certain locations, that's when the criminal comes back into that neighborhood."

Daley's final budget called for hiring 200 additional officers — nowhere near enough to keep pace with attrition — but the officers were never hired.

On Tuesday, Emanuel disclosed that his 2012 budget would set aside funding to hire "a class" of police recruits, without revealing how many officers would be hired. And he refused to say what he plans to do with the 1,400 police vacancies.

McCarthy told the Sun-Times in late August that he had been asked to cut at least \$190 million from the Police Department's \$1.3 billion-a-year budget and would get only half way there by eliminating vacancies.

Two weeks ago, he retreated from that position, saying, "I don't want to eliminate positions. I want to hold on to them and not fill them," then hire officers when economic conditions improve.

Budget Director Alex Holt subsequently told Chicago Sun-Times columnist Mark Brown that the 1,400 police vacancies would be placed "essentially in a reserve account."

Last month, Ald. Scott Waguespack (32nd) was open to the idea of closing the Wood station, noting that demographics

and crime patterns have changed. But, now that Emanuel and McCarthy are planning to close two stations in his ward — Wood and Belmont — he's livid.

"It basically pulls officers away in either direction from the ward," Waguespack said. "They're not even considering rebuilding the [Wood St.] station."

Ald. Jim Balcer (11th), chairman of the City Council's Public Safety Committee, has said he would entertain station closings if he was assured it would "put more people out on the street."

"That has to be looked at — as long as the community is safe. That's the biggest thing. If you can consolidate and put more people in the community to support that community and police officers, yes" he would consider it, Balcer said last month.

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F



Rahm Emanuel
Mayor

Department of Police • City of Chicago
3510 S. Michigan Avenue • Chicago, Illinois 60653

Garry F. McCarthy
Superintendent of Police

June 22, 2011

Bob Herguth
Better Government Association
223 W. Jackson Suite 620
Chicago, IL 60606

Re: NOTICE OF RESPONSE
REQUEST DATE: June 08, 2011
FOIA FILE NO.: 11-2242

Dear Mr. Herguth:

The Chicago Police Department is in receipt of your Freedom of Information Act (FOIA) request for: "copies of documents sufficient to show where each and every tactical unit for each of Chicago's 25 police district were assigned every shift of every day from Jan 1, 2011 to present day."

Your request was reviewed by the undersigned. Upon review, it was determined that the Department will be unable to respond to your request as it is currently written. Section 3(g) of the Illinois FOIA provides that "requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body." Your request asks that the Department provide you with records which indicate the assignment for each district tactical team for every day in 2011. In order to initiate the process to locate potentially responsive documents, approximately twelve-thousand individual attendance and assignment records (A&A's) would need to be located and reviewed to determine where each of the city's district tactical teams was assigned for every shift of every day in 2011. The dedication of personnel and resources required to compile and analyze such a voluminous number of records would place a significant and undue burden on Department operations.

Pursuant to 5 ILCS 140 3(g), you are invited to confer with the undersigned in an attempt to narrow your request to more specific and manageable proportions that would not impose an undue burden on the Department. Otherwise, as explained above, we will be unable to respond to your current request. If you decide to seek assistance in narrowing your request, you may contact me at (312) 745-5308, or by mail at the following address:

Chicago Police Department
Attention: Freedom of Information Officer
Records Inquiry Section, Unit 163
3510 S. Michigan Ave., Rm. 1027SE
Chicago, IL 60653

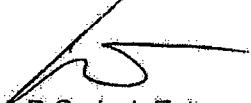
If you decide to narrow your request, you must submit a revised request to my attention by mail to the above address, or by email to foia@chicagopolice.org. In either case, please be sure to reference your FOIA File No. 11-2242 in order to avoid any duplication of work or miscommunication.

The Department will take no further action or send you any further correspondence unless and until your current request is narrowed in writing. If we do not receive your revised request within fourteen (14) calendar days of the date of this letter, your current request will result in a denial under Section 5 ILCS 140/3(g). In the event of a denial, you will have a right of review by the Illinois Attorney General's Public Access Counselor (PAC). You can file your request for review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, IL 62706

You will also have a right to seek judicial review of a denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11. If you chose to file a request for review with the PAC, you must do so within 60 calendar days of the date of the denial. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request as well as this letter when filing a request for review with the PAC.

Sincerely,



P.O. Jack Enter
Assistant Freedom of Information Officer
Department of Police

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Rahm Emanuel
Mayor

Department of Police • City of Chicago
3510 S. Michigan Avenue • Chicago, Illinois 60653

Garry F. McCarthy
Superintendent of Police

July 25, 2011

Bob Herguth
Better Government Association
223 W. Jackson Blvd., Suite 620
Chicago, IL 60606

Re: NOTICE OF RESPONSE
REQUEST DATE: July 12, 2011
FOIA FILE NO.: 11-2689

Dear Mr. Herguth:

The Chicago Police Department is in receipt of your Freedom of Information Act (FOIA) request for: "Copies of documents sufficient to show where each and every tactical unit for each of Chicago's 25 police districts was assigned every shift of every day during the last two weeks of April 2011."

Your request was reviewed by the undersigned. Upon review, it was determined that your request is denied. The day-to-day assignments of tactical teams are an integral part of the Department's overall personnel deployment plan which is designed to protect both the City and its residents. This personnel deployment information is not subject to release under FOIA. Specifically, the Act exempts:

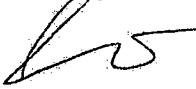
Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations. (Emphasis added). 5 ILCS 140/7 (1)(v).

Thus, all information regarding the assignment and deployment of sworn officers (including tactical officers) is exempt from disclosure in that this information pertains to the "mobilization or deployment of personnel" specifically protected by the Act. It can reasonably be expected that this personnel deployment information, if released, could be used to undermine the effectiveness of the City's security measures as well as jeopardize the safety of the personnel designated to implement these measures.

If I can be of further assistance, you may contact me at (312) 745-5308, or by mail at the below address:

Chicago Police Department
Attention: Freedom of Information Officer
Records Inquiry Section, Unit 163
3510 S. Michigan Ave., Rm. 1027SE
Chicago, IL 60653

Sincerely,



P.O. Jack Enter
Assistant Freedom of Information Officer
Department of Police

You have a right of review by the Illinois Attorney General's Public Access Counselor ("PAC"). You can file a request for review by writing to:

Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone: 312-814-5526 or 1-877-299-FOIA (1-877-299-3642)

If you choose to file a Request for Review with the PAC, you must do so, in writing, within 60 calendar days of the date of this denial letter. 5 ILCS 140-9.5(a). When filing a Request for Review, you must include a copy of the original FOIA request and this denial letter. You may also seek judicial review of a denial under 5 ILCS 140/11 by filing a lawsuit in the State Circuit Court.